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09/288,685	04/09/1999	DAVID T. FREDERICK	D-1108	7773
28995	7590	01/08/2004	EXAMINER	
RALPH E. JOCKE 231 SOUTH BROADWAY MEDINA, OH 44256			SHAPIRO, JEFFERY A	
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			3653	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/288,685	FREDERICK, DAVID T.
	Examiner Jeffrey A. Shapiro	Art Unit 3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 May 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-56 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-56 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6) Other: _____

DETAILED ACTION

Claim Objections

I. Claim 2, for example, depends from Claim 40. It is suggested that All such instances of a lower numbered claim depending from a higher numbered claim be changed so that higher numbered claims depend from lower numbered claims. By doing so, the claims will be made easier to read.

Claim Rejections - 35 USC § 112

II. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

III. Claims 20-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Method Claims 20-28 depend from a set of Apparatus Claims, starting with dependent Apparatus Claim 19, which depends from Independent Apparatus Claim 40. This appears to be unclear by invoking both apparatus format and method steps. It is suggested that the apparatus which is described in Claim 19 (and all preceding claims in the chain from which it depends) be positively recited in a first Independent Method Claim.

Claim Rejections - 35 USC § 103

IV. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

V. Claims 1-38 and 40-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bach et al (US 5,378,057) in view of Gardner (US 5,392,951). Bach et al describes Applicant's apparatus as described in Applicant's claims and as illustrated in Applicant's figures 56-65. Bach teaches and discloses the following.

As described in and Applicant's Claims 1-9, 12-19, 29-35, 40-47, 49, 53-56 and figure 56;

1. Applicant's 1st and 2nd projections are equivalent to Bach's tabs (214) and (220).
2. Applicant's connecting member is equivalent to Bach's rail (202).

See Bach, figure 12. Note that although Applicant's releasable connecting member has two sets of tabs (568) and (570), it appears to be a functional equivalent of Bach's rail and tabs.

As described in Applicant's Claims 1-9, 12-19, 29-35, 40-47, 49, 53-56 and figure 57;

3. Applicant's supporting structure, two side walls, bottom surface, top surface, and back wall are equivalent to Bach's supporting structure (cabinet) (20), two side walls (126), bottom surface (124), top surface (122), back wall (82). They both have an opening on the front.

See figure 3 of Bach, noting that the inner frame (120) has no rear panel, but that the wrapper (80) has three sides, the rear panel (82) being the rear wall equivalent to Applicant's.

As described in Applicant's Claims 1-9, 12-19, 29-35, 40-47, 49, 53-56 and figure 57;

4. Applicant's supporting structure also has two sets of apertures consisting of one aperture elongated in a vertical direction and one aperture elongated in the horizontal direction, so as to mate with the projections/tabs described above. These are equivalent to Bach's two slots (174 and 180) elongated in a vertical direction and two slots (172, 176, 178 and 182) elongated in the horizontal direction to mate with the tabs described above.

See Bach, figure 8, noting that the pattern of Bach's slots appear to be equivalent to the pattern exhibited in Applicant's figure 57.

As described in Applicant's Claims 1-9, 12-19, 29-35, 40-47, 49, 53-56 and figure 58;

5. Applicant's horizontal and vertical slots, inner wall, and outer wall are equivalent to Bach's horizontal and vertical slots (176, 178) and (180) and inner wall (126) and outer wall (84).

See Bach's figures 3 and 8.

As described in Applicant's Claims 1-9, 12-19, 29-35, **36**, 40-47, 49, 53-56 and figures 59 and 65;

6. Applicant's outer wall, inner wall, drawer glide, bracket with two tabs, and end portion with an inner portion of a finger projection and with mating apertures, said apertures constituting a set of apertures, are equivalent to Bach's outer wall (84), inner wall (126), drawer glide (204), bracket (202) including two tabs (214), and tab (220) with an end portion including inner portion of a finger projection with mating apertures (170), noting that apertures (170) constitute a set of apertures.

7. Applicant's configuration (600) comprising a vertical wall, apertures, outward extending portion, bracket, first and second projection, are considered to be functionally equivalent of Applicant's configuration illustrated in figure 59. By extrapolation, Applicant's configuration of figure 65 is considered a functional equivalent of Bach's configuration.

See Bach's figures 8, 9, 11, 15 and 21. Note that Applicant's apertures (170) are the same as Bach's apertures (176, 178 and 180). Note also that Applicant's drawer glide (574) may be construed to be one piece with the bracket (566), which would be equivalent to Bach's rail (202), which acts as its own bracket in concert with the tabs

and (214, 216, 220 and 218). Although Applicant's bracket has a vertical elongated tab and a horizontal elongated tab on either end of the bracket, the tabs (218) on the other side of Bach's bracket/drawer glide (202) are considered to be functional equivalents to Applicant's structure.

Further, note that whether the bend which constitutes Applicant's inner portion (592) of projection (570) with end portion (596) which is placed in an aperture (594) with straight inner wall (557), as shown in Applicant's figure 59, or the projection (570) is a straight projection, such as (614), which is placed through aperture (606), so as to mate with an offset wall portion (608), as illustrated in Applicant's figure 65, it appears that both configurations illustrated in Applicant's figures 59 and 65 are functionally equivalent to Bach's configuration as illustrated in figures 8, 9, 11, 15 and 21. See paragraph "6" above, for discussion.

As described in Applicant's Claims 10, 11, 29, 41, 48, 50-52 and figures 61-63;

8. Applicant's support structure, drawers, and shelves are equivalent to Bach's cabinet (20), drawers (100) and shelves (230).

See Bach, figures 1 and 22.

As described in Applicant's Claims 37-39 and figure 60;

9. Applicant's enclosure, door, hinges and lock module are equivalent to Bach's enclosure (20) with door (232), and hinges (238 and 240).

See Bach, figures 6 and 22. Regarding the lock module, Bach mentions that channel (134), of Bach's figure 6, is a support for a lock module, as is well-known in the art.

As described in Applicant's Claims 1-9, 12-19, 29-35, **36**, 40-47, 49, 53-56 and figure 64;

10. Applicant's outer wall, wall, apertures, and drawer are equivalent to Bach's outer wall (84), wall (126), apertures (170, 172) and drawer (100).

See Bach, figures 1, 6 and 11. Note again that Bach's column support (134) also has apertures for supporting brackets for locks, as previously described in "7" above.

Bach et al does not expressly disclose the following.

As described in Applicant's Claim 38 and figure 64;

11. Applicant's locking member, electronic lock, latch, electrical connection, and engaging members.

Gardner et al (US 5,392,951) discloses the following.

As described in Applicant's Claim 38 and figure 64;

12. Applicant's locking member, electronic lock, latch, electrical connection, and engaging members are equivalent to Gardner's locking member (29, 31, 33 and 35), "with corresponding drawer members

attached to each drawer" (see col. 3, lines 49-52) of Gardner), electronic lock (see figure 7 of Gardner), electrical connection (again, see figure 7, noting that Gardner's lock operates electrically and must have an electrical connection).

Both Bach and Gardner are considered to be analogous art because they both concern cabinets with drawers having locking mechanisms.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use Gardner's drawer lock system in the cabinet of Bach.

The suggestion/reason would have been to provide "a mechanism which enables automatic opening of one selected drawer to a predetermined distance" that can be used, for example, in a medical storage cabinet. See col. 1, lines 5-10 and col. 2, lines 9-12 of Gardner. Although Gardner does not disclose Applicant's engaging members (652) and associated apertures (648), Bach's retention channel (134) "provides means to attach a locking mechanism (not shown) to metal case (20)." "The locking mechanism which may be chosen from those well-known in the art...may be provided to lock drawers (100) in the closed position and prevent tipping of the case." See Bach, col. 5, lines 44-51. See also figure 6 of Bach which shows channel (134), which appears to have several sets of vertically elongated apertures along its length. Such apertures are highly suggestive, especially in light of the other tab/aperture structure disclosed by Bach, of being used to fasten and support a locking mechanism along its length, as shown in Applicant's figure 64.

Regarding the method claims 20-28, note that it would be obvious to practice use of the apparatus of Bach as described in Applicant's method, since Applicant's claimed structure is equivalent or functionally equivalent to Bach's taught and disclosed structure and Gardner's teachings and disclosures, as described above. It therefore follows that the method claims 20-28 are rejected as well.

Therefore, it would have been obvious to combine Bach and Gardner in order to obtain the invention as described in Claims 1-38 and 40-56.

VI. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bach et al (US 5,378,057) in view of Gardner and further in view of Hingham et al (US 5,905,653). Bach and Gardner disclose Applicant's apparatus as described above.

Bach does not expressly disclose, but Hingham discloses the following.

As described in Claim 39;

1. at least one respective medical item stored in the cabinet (see figure 4 and col. 22, lines 32-35 of Hingham),
2. a user input device (buttons 20 or 222) in operative connection with the lock module and a computer in operative connection with the user input device;

(See Hingham abstract and col. 7, lines 55-67 and col. 8, lines 1-30, noting that the buttons are connected to the lock processor (22) and the

locks of the drawers, which register recordation of actions taken with items and draws as well as compartments within the drawers.)

3. the computer in operative connection with a data store;

(See Hingham abstract, lines 9-11, which states that "the processor includes a record of the items held within each drawer and which items may be accessed by specific users or user types. Note also that records are kept of which items have been removed. See col. 22, lines 33-35.

Processors that have records stored in them are construed to have memory or a functional equivalent thereof.)

4. wherein the data store includes data representative of a storage location within the cabinet (again, see Hingham abstract, lines 9-11), the first medical item stored in the storage location in the cabinet (again, see abstract, lines 9-11),

5. and authorized inputs for enabling access to the first medical item (see col. 26, lines 62-67 and col. 27, lines 1-47.),

6. and wherein the computer is operative responsive to authorized inputs to the user interface to cause the condition of the lock module to change the unsecured condition, whereby a first medical item stored in the

storage location may be accessed (again, see Hingham col. 26, lines 62-67 and col. 27, lines 1-47).

Both Bach and Hingham are considered to be analogous art because they both concern cabinets with drawers having locking mechanisms, noting that Bach can readily be used to store items, such as medical items.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use Hingham's computerized drawer lock system in the cabinet of Bach.

The suggestion/reason would have been to provide an organized, computerized system for "providing access to items to be dispensed" which may find particular use in dispensing and inventorying of medical supplies. See col. 1, lines 18-23.

Therefore, it would have been obvious to combine Bach, Gardner and Hingham in order to obtain the invention as described in Claim 39.

VII. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone number for the organization where this application or proceeding is assigned is (703)306-4195.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.



Jeffrey A. Shapiro
Examiner
Art Unit 3653

December 4, 2003

